

POLITICAL SUBDIVISION LIEN AUTHORITY

2018 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill addresses provisions related to political subdivision lien authority.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies existing grants of political subdivision lien authority to ensure that each grant provides an identifiable effective date, notice mechanism, and enforcement mechanism;
- ▶ expressly outlines limits on political subdivision liens;
- ▶ clarifies the local district fees, costs, or interest that a county treasurer is required to include on a property tax notice;
- ▶ restricts the items that may be included on the property tax notice to items expressly allowed in statute;
- ▶ provides that inclusion of an item on a property tax notice or a notice of delinquency does not automatically render the item or allow the item to be treated as a property tax;
- ▶ clarifies a provision regarding a property owner's ability to direct the application of the owner's partial payment of taxes and charges; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-7-30, Utah Code Annotated 1953

10-7-31, Utah Code Annotated 1953

10-8-17, as last amended by Laws of Utah 2010, Chapter 378
 10-8-19, Utah Code Annotated 1953
 10-11-4 (Effective 01/01/18), as last amended by Laws of Utah 2017, Chapter 460
 11-42-501, as last amended by Laws of Utah 2015, Chapter 349
 11-42a-201, as enacted by Laws of Utah 2017, Chapter 470
 11-42a-301, as enacted by Laws of Utah 2017, Chapter 470
 17B-1-902 (Effective 01/01/18), as last amended by Laws of Utah 2017, Chapter 460
 17B-2a-506, as last amended by Laws of Utah 2015, Chapter 349
 17B-2a-1007, as last amended by Laws of Utah 2015, Chapter 258
 59-2-1317, as last amended by Laws of Utah 2016, Chapter 353
 59-2-1332.5, as last amended by Laws of Utah 2016, Chapter 368
 59-2-1343, as last amended by Laws of Utah 1995, Chapter 181
 59-2-1351, as last amended by Laws of Utah 2009, Chapter 388

ENACTS:

11-58-101, Utah Code Annotated 1953
 11-58-102, Utah Code Annotated 1953
 11-58-103, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **10-7-30** is amended to read:

10-7-30. Failure to pay for repairs -- Lien on company's property.

(1) In the event of the refusal of any ~~[such]~~ company to pave, repave, or repair as
 required ~~[herein]~~ in this section when so directed, upon the paving or repaving of any street
 upon which ~~[its]~~ the company's track is laid, the municipality ~~[shall have power to]~~ may:

(a) pave, repave, or repair the ~~[same,]~~ street; and

(b) collect the cost and expense of ~~[such]~~ the paving, repaving, or repairing ~~[may be]~~
~~collected]~~ by levy and sale of any property of ~~[such]~~ the company in the same manner as
 special taxes are ~~[now or may be]~~ collected. ~~[Special]~~

(2) The municipality may levy special taxes, for the purpose ~~[of paying the cost of any]~~
~~such paving or repaving, macadamizing]~~ described in Subsection (1)(b) or repairing of [any
~~such]~~ the railway ~~[may be levied]~~, upon:

64 (a) all as one property:

65 (i) the track, including the ties, iron, roadbed, right of way, sidetracks, and
66 appurtenances[;]; and

67 (ii) buildings and real estate belonging to [~~any such~~] the company and used for the
68 purpose of [~~such~~] the railway business [~~all as one property;~~] or [~~upon such~~]

69 (b) the parts of [~~such~~] the track, appurtenances, and property as may be within the
70 district paved, repaved, macadamized, or repaired[; and shall be].

71 (3) (a) The municipality may record the levied special taxes described in Subsection (2)
72 as a lien upon the levied property [levied upon from the time of the levy until satisfied. No].

73 (b) The lien described in Subsection (3)(a):

74 (i) is effective as of the date on which the municipality records the lien in the office of
75 the recorder of the county in which the property is located; and

76 (ii) is subordinate in priority to all encumbrances on the property existing on the date
77 on which the municipality records the lien.

78 (c) Any mortgage, conveyance, pledge, transfer, or encumbrance of [~~any such~~] the
79 property or of any rolling stock or personal property of [~~any such~~] the company[; created or
80 suffered by it after the time when any street or part thereof upon which any railway shall have
81 been laid shall have been ordered paved, repaved, macadamized or repaired shall be made or
82 suffered except] that the company creates or suffers subject to the lien [of such special taxes, if
83 such levy is in contemplation].

84 Section 2. Section **10-7-31** is amended to read:

85 **10-7-31. Sale of property to satisfy claims for special taxes.**

86 [~~The~~] (1) (a) If the lien is recorded in accordance with Subsection 10-7-30(3), the city
87 treasurer [shall have the power and authority to] may;

88 (i) seize any personal property belonging to [~~any such~~] a company for the satisfaction
89 of [~~any such~~] special taxes when delinquent[;]; and [to]

90 (ii) sell the [~~same~~] property upon advertisement and in the same manner as constables
91 [are now or] may [be authorized to] sell personal property upon execution[; but failure so to do
92 shall in no wise].

93 (b) Failure to seize and sell property under Subsection (1)(a) does not affect or impair
94 the lien of the tax or any proceeding allowed by law for the enforcement [thereof. The] of the

95 lien.

96 (2) A municipality may sell the railroad track or any other property, or a necessary
97 portion, upon which [such] the municipality levies special taxes [shall be levied, or so much
98 thereof as may be necessary, may be sold] for the payment of [such] the special taxes in the
99 same manner and with the same effect as real estate upon which special taxes are levied may be
100 sold.

101 Section 3. Section **10-8-17** is amended to read:

102 **10-8-17. City may act as distributing agent -- Collection of operating costs from**
103 **users.**

104 (1) When the governing body of a city is acting as distributing agent of water, not the
105 property of the corporation, outside of or within its corporate limits, the governing body may
106 annually [prior to], before the commencement of the irrigation season, determine and fix the
107 sum [deemed] considered necessary to meet the expense of the current year for the purpose of:

108 (a) controlling, regulating, and distributing [such] the water; and

109 (b) constructing and keeping in repair the necessary means for diverting, conveying,
110 and distributing the [same, and they] water.

111 (2) (a) The governing body may collect [such] the sum described in Subsection (1)
112 from the persons entitled to the use of [such] the water, pro rata according to acreage, whether
113 the acreage is situate within or without the corporate boundary of the city[; provided, that the
114 funds so derived may not be appropriated or used].

115 (b) The governing body may not appropriate or use the derived funds for any other
116 purpose[; and in] than the purposes described in Subsection (1).

117 (c) In the event that the governing body collects a greater sum [is collected] in any one
118 year than is necessary [for said purpose, the excess thereof shall be carried] under Subsection
119 (1), the governing body shall carry the excess to the account of the year next following and
120 [applied to the purpose for which it was collected. Such sum shall be fixed and collected as
121 provided by ordinance, and until collected the same shall be] apply the excess to the purposes
122 described in Subsection (1).

123 (d) The governing body shall enact an ordinance fixing and providing for the collection
124 of the sum.

125 (3) (a) Until the governing body collects the sum described in Subsection (1), the

governing body may record the sum as a lien on ~~[such]~~ the subject water rights and the land irrigated ~~[thereby]~~ by the water.

(b) The lien described in Subsection (3)(a):

(i) is effective as of the date on which the governing body records the lien in the office of the recorder of the county in which the subject property is located; and

(ii) is subordinate in priority to all encumbrances on the property existing on the date on which the municipality records the lien.

(c) The governing body may pursue judicial foreclosure to enforce the lien in the same manner of enforcing a valid judgment of a district court.

(d) If the lien is not recorded in accordance with this Subsection (3), and if a subsequent bona fide purchaser purchases the assessed property for value, the lien is invalid and does not attach to the property.

Section 4. Section 10-8-19 is amended to read:

10-8-19. Water supply -- Special tax for increasing supply when city acting as distributing agent.

(1) Whenever a city is acting as distributing agent of water, not the property of the corporation, outside of or within the corporate limits of such city, upon written petition of the owners of ~~[such]~~ the water, ~~[it]~~ the city may increase the supply of water ~~[owned by such persons]~~ that the petitioners own by any means provided in Section 10-8-18~~[-and for that purpose]~~.

(2) (a) To increase the supply of water under Subsection (1), the city may levy and collect from the owners of ~~[such]~~ the water a tax not exceeding ~~[such]~~ the sum per acre of land owned ~~[by such persons as may have been]~~ as agreed upon and designated in ~~[said]~~ the petition~~[-said tax when so collected to be appropriated exclusively to said purposes, except such part thereof]~~.

(b) The city shall appropriate the tax collected under Subsection (2)(a) exclusively to increase the supply of water under Subsection (1), except as is necessary to pay the expense of levying and collecting the ~~[same. Said tax shall constitute]~~ tax.

(3) (a) If the owner of a water right subject to the tax described in Subsection (2) fails to pay the tax, the city may record the unpaid tax as a lien upon the owner's water rights ~~[of the persons]~~ and the land ~~[irrigated thereby, and shall be levied and collected as provided in~~

Section 10-8-17] that the water irrigates.

(b) The lien described in Subsection (3)(a):

(i) is effective as of the date on which the city records the lien in the office of the recorder of the county in which the subject property is located; and

(ii) is subordinate in priority to all encumbrances on the property existing on the date on which the municipality records the lien.

(c) The city may pursue judicial foreclosure to enforce the lien in the same manner as enforcing a valid judgment of a district court.

(d) If the assessment resolution or ordinance is not recorded in accordance with this Subsection (3), and if a subsequent bona fide purchaser purchases the assessed property for value, the lien is invalid and does not attach to the property.

Section 5. Section **10-11-4 (Effective 01/01/18)** is amended to read:

10-11-4 (Effective 01/01/18). Costs of removal to be included in tax notice.

(1) A municipality may certify to the treasurer of the county in which a property described in Section 10-11-3 is located, the unpaid costs and expenses that the municipality has incurred under Section 10-11-3 with regard to the property.

(2) If the municipality certifies with the treasurer of the county any costs or expenses incurred for a property under Section 10-11-3, the treasurer shall enter the amount of the costs and expenses on the assessment and tax rolls of the county in the column prepared for that purpose.

(3) If current tax notices have been mailed, the treasurer of the county may carry the costs and expenses described in Subsection (2) on the assessment and tax rolls to the following year.

(4) (a) After entry by the treasurer of the county under Subsection (2), the municipality may record the amount entered as a lien against the property that:

~~[(a)]~~ (i) ~~[shall have the force and effect of]~~ has the same priority as a valid judgment of the district court, subordinate in priority to all encumbrances on the property existing on the date the municipality records the lien; and

~~[(b) is a lien upon the property; and]~~

(ii) is effective on the date on which the municipality records the lien in the office of the recorder in the county in which the property is located.

188 ~~[(c) shall be collected by the treasurer of the county in which the property is located at~~
189 ~~the time of the payment of general taxes.]~~

190 (b) The municipality may pursue judicial foreclosure to enforce the lien in the same
191 manner as enforcing a valid judgment of a district court.

192 (c) If the lien is not recorded in accordance with this Subsection (4), and if a
193 subsequent bona fide purchaser purchases the assessed property for value, the lien is invalid
194 and does not attach to the property.

195 (5) Upon payment of the costs and expenses that the treasurer of the county enters
196 under Subsection (2):

197 ~~[(a) the judgement is satisfied;]~~

198 ~~[(b)]~~ (a) the lien described in Subsection (4) is released from the property; and

199 ~~[(c)]~~ (b) ~~[receipt shall be acknowledged]~~ the treasurer shall acknowledge receipt upon
200 the general tax receipt ~~[issued by]~~ that the treasurer issues.

201 (6) (a) If a municipality certifies unpaid costs and expenses under this section, the
202 treasurer of the county shall provide a notice, in accordance with this Subsection (6), to the
203 owner of the property for which the municipality has incurred the unpaid costs and expenses.

204 (b) In providing the notice required in Subsection (6)(a), the treasurer of the county
205 shall:

206 (i) include the amount of unpaid costs and expenses that a municipality has certified on
207 or before July 15 of the current year;

208 (ii) provide contact information, including a phone number, for the property owner to
209 contact the municipality to obtain more information regarding the amount described in
210 Subsection (6)(b)(i); and

211 (iii) notify the property owner that:

212 (A) if the amount described in Subsection (6)(b)(i) is not paid in full by September 15
213 of the current year, any unpaid amount will be included on the property tax notice required by
214 Section 59-2-1317; and

215 (B) the failure to pay the amount described in Subsection (6)(b)(i) ~~[has resulted]~~ may
216 result in a lien on the property in accordance with ~~[this section]~~ Subsection (4).

217 (c) The treasurer of the county shall provide the notice required by this Subsection (6)
218 to a property owner on or before August 1.

(d) Before any tax sale proceedings on a property described in Subsection (1), the treasurer of the county shall:

(i) remove from the assessment roll any costs or expenses that the treasurer added to the assessment roll under Subsection (2); and

(ii) return the costs or expenses to the municipality that originally certified the costs or expenses to the treasurer under Subsection (1).

(7) This section does not apply to any public building, public structure, or public improvement.

Section 6. Section **11-42-501** is amended to read:

11-42-501. Assessment constitutes a lien -- Characteristics of an assessment lien.

(1) (a) [Each] If the assessment resolution or ordinance is recorded in the office of the recorder of the county in which the assessed property is located, each assessment levied under this chapter, including any installment of an assessment, interest, and any penalties and costs of collection, constitutes a lien against the property assessed as of the effective date of the assessment resolution or ordinance.

(b) If the assessment resolution or ordinance is not recorded in accordance with Subsection (1)(a), and if a subsequent bona fide purchaser purchases the assessed property for value, the lien is invalid and does not attach to the property.

(2) A lien under this section:

(a) is superior to the lien of a trust deed, mortgage, mechanic's or materialman's lien, or other encumbrances;

(b) has the same priority as, but is separate and distinct from, a lien for general property taxes;

(c) applies without interruption, change in priority, or alteration in any manner to any reduced payment obligations; and

(d) except as provided in Subsection (1)(b), continues until the assessments, reduced payment obligations, and any interest, penalties, and costs are paid, despite a sale of the property for or on account of a delinquent general property tax, special tax, or other assessment or the issuance of a tax deed, an assignment of interest by the county, or a sheriff's certificate of sale or deed.

Section 7. Section **11-42a-201** is amended to read:

11-42a-201. Resolution or ordinance designation an energy assessment area, levying an assessment, and issuing an energy assessment bond.

(1) (a) Except as otherwise provided in this chapter, and subject to the requirements of this part, at the request of a property owner on whose property or for whose benefit an improvement is being installed or being reimbursed, a governing body of a local entity may adopt an energy assessment resolution or an energy assessment ordinance that:

- (i) designates an energy assessment area;
- (ii) levies an assessment within the energy assessment area; and
- (iii) if applicable, authorizes the issuance of an energy assessment bond.

(b) The boundaries of a proposed energy assessment area may:

- (i) include property that is not intended to be assessed; and
- (ii) overlap, be coextensive with, or be substantially coterminous with the boundaries of any other energy assessment area or an assessment area created under Title 11, Chapter 42, Assessment Area Act.

(c) The energy assessment resolution or ordinance described in Subsection (1)(a) is adequate for purposes of identifying the property to be assessed within the energy assessment area if the resolution or ordinance describes the property to be assessed by legal description and tax identification number.

(2) (a) A local entity that adopts an energy assessment resolution or ordinance under Subsection (1)(a) shall give notice of the adoption by:

- (i) (A) publishing a copy or a summary of the resolution or ordinance once in a newspaper of general circulation where the energy assessment area is located; or
- ~~[(ii)]~~ (B) if there is no newspaper of general circulation where the energy assessment area is located, posting a copy of the resolution or ordinance in at least three public places within the local entity's jurisdictional boundaries for at least 21 days~~[-]; and~~

(ii) recording the original or certified copy of the energy assessment resolution or ordinance in the office of the recorder of the county in which property to be assessed is located; and

(iii) filing with the recorder of the county in which property to be assessed is located a notice of proposed assessment that:

- (A) states that the local entity has designated an energy assessment area; and

(B) lists, by legal description and tax identification number as identified on county records, the property proposed to be assessed.

(b) Except as provided in Subsection (2)(a), a local entity is not required to make any other publication or posting of the resolution or ordinance.

(c) If a local entity fails to comply with the requirements of Subsection (2)(a):
(i) the failure does not invalidate the designation of an energy assessment area; and
(ii) the local entity may not assess a levy against a subsequent purchaser of a benefitted property that lacked recorded notice unless:

(A) the subsequent purchaser gives written consent;
(B) the subsequent purchaser has actual notice of the assessment levy; or
(C) the subsequent purchaser purchased the property after a corrected notice was filed under Subsection (2)(d).

(d) The local entity may file a corrected notice under Subsection (2)(a)(ii) or (iii) if the entity fails to comply with the date or other requirements for recording notice of the energy assessment resolution or ordinance.

(e) If a governing body has filed a corrected notice under Subsection (2)(d), the local entity may not retroactively collect or adjust the amount of the levy to recapture lost funds for a levy that the local entity was prohibited from collecting, if applicable, under Subsection (2)(c).

(3) Notwithstanding any other statutory provision regarding the effective date of a resolution or ordinance, each energy assessment resolution or ordinance takes effect:

(a) on the date of publication or posting of the notice under Subsection (2); or
(b) at a later date as provided in the resolution or ordinance.

(4) (a) The governing body of each local entity that has adopted an energy assessment resolution or ordinance under Subsection (1) shall, within five days after the effective date of the resolution or ordinance, file a notice of assessment interest with the recorder of the county in which the property to be assessed is located.

(b) Each notice of assessment interest under Subsection (4)(a) shall:
(i) state that the local entity has an assessment interest in the property to be assessed;
and
(ii) describe the property to be assessed by legal description and tax identification number.

(c) A local entity's failure to file a notice of assessment interest under this Subsection (4) has no effect on the validity of an assessment levied under an energy assessment resolution or ordinance adopted under Subsection (1).

Section 8. Section **11-42a-301** is amended to read:

11-42a-301. Assessment constitutes a lien -- Characteristics of an energy assessment lien.

(1) (a) [Each] If the energy assessment resolution or ordinance is recorded in the office of the recorder of the county in which the assessed property is located, each assessment levied under this chapter, including any installment of an assessment, interest, and any penalties and costs of collection, constitutes a lien against the assessed property, beginning on the effective date of the energy assessment resolution or ordinance that the local entity adopts under Subsection 11-42a-201(1)(a).

(b) If the energy assessment resolution or ordinance is not recorded in accordance with Subsection (1)(a), and if a subsequent bona fide purchaser purchases the assessed property for value, the lien is invalid and does not attach to the property.

(2) An energy assessment lien under this section:

(a) is superior to the lien of a trust deed, mortgage, mechanic's or materialman's lien, or other encumbrances;

(b) has the same priority as, but is separate and distinct from:

(i) a lien for general property taxes; or

(ii) any other energy assessment lien levied under this chapter;

(c) applies to any reduced payment obligations without interruption, change in priority, or alteration in any manner; and

(d) except as provided in Subsection (1)(b), continues until the assessment and any related reduced payment obligations, interest, penalties, and costs are paid, regardless of:

(i) a sale of the property for or on account of a delinquent general property tax, special tax, or other assessment; or

(ii) the issuance of a tax deed, an assignment of interest by the county, or a sheriff's certificate of sale or deed.

Section 9. Section **11-58-101** is enacted to read:

CHAPTER 58. POLITICAL SUBDIVISION LIEN AUTHORITY

11-58-101. Title.

This chapter is known as "Political Subdivision Lien Authority."

Section 10. Section **11-58-102** is enacted to read:

11-58-102. Definitions

As used in this chapter:

(1) "Direct charge" means a charge, fee, assessment, or amount, other than a property tax, that a statute authorizes a political subdivision to charge to a property owner.

(2) "Political subdivision" means:

(a) a county, as that term is defined in Section 17-50-101;

(b) a municipality, as that term is defined in Section 10-1-104;

(c) a local district, as that term is defined in Section 17B-1-102;

(d) a special service district, as that term is defined in Section 17D-1-102;

(e) an interlocal entity, as that term is defined in Section 11-13-103;

(f) a community reinvestment agency created under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(g) a local building authority, as that term is defined in Section 17D-2-102; or

(h) a conservation district, as that term is defined in Section 17D-3-102.

(3) "Political subdivision lien" means:

(a) a lien that a statute expressly authorizes a political subdivision to hold and record;

or

(b) a direct charge that constitutes, according to an express statutory provision, a lien.

(4) "Property tax" means any ad valorem tax on real property:

(a) that, if delinquent, subjects a property to a tax sale; and

(b) for which a rate increase is subject to notice and public hearing requirements in accordance with Section 59-2-919.

(5) "Tax sale" means the tax sale described in Sections 59-2-1351 and 59-2-1351.1.

Section 11. Section **11-58-103** is enacted to read:

11-58-103. Limitation on lien authority.

(1) Unless expressly stated in statute, a political subdivision lien:

(a) is not equivalent to and does not have the same priority as property tax; and

(b) is not subject to the same collection or tax sale procedures as a property tax.

(2) (a) Except as provided in Subsection (3) or expressly stated otherwise in statute, a political subdivision may record a lien against a property for the property owner's failure to pay a direct charge.

(b) The lien described in Subsection (2)(a):

(i) is effective on the date the political subdivision records the lien in the office of the recorder of the county in which the subject property is located; and

(ii) is subordinate in priority to all encumbrances on the property existing on the date the political subdivision records the lien.

(c) The political subdivision may pursue judicial foreclosure to enforce the lien in the same manner of enforcing a valid judgment of a district court.

(3) Unless expressly granted in statute, a political subdivision has no lien authority or lien rights when a property owner fails to pay a direct charge for

(a) a service that the political subdivision renders; or

(b) a product, an item, or goods that the political subdivision delivers.

Section 12. Section **17B-1-902 (Effective 01/01/18)** is amended to read:

17B-1-902 (Effective 01/01/18). Lien for past due service fees -- Notice -- Partial payment allocation.

(1) (a) A local district may file a lien on a customer's property for past due fees for commodities, services, or facilities that the district has provided to the customer's property by certifying, subject to Subsection (3), to the treasurer of the county in which the customer's property is located the past due fees, including, subject to Section 17B-1-902.1, applicable interest and administrative costs.

(b) (i) Upon certification under Subsection (1)(a), the local district may record the past due fees, and if applicable, interest and administrative costs, ~~[become]~~ as a lien on the customer's property to which the commodities, services, or facilities were provided.

~~[(c)]~~ (ii) A lien ~~[filed]~~ recorded in accordance with this ~~[section]~~ Subsection (1)(b) has the same priority as, but is separate and distinct from, a property tax lien.

(iii) If the property owner does not satisfy the lien described in Subsection (1)(b)(i), the local district may sell the property for the amount due plus interest, penalties, and costs in the manner provided in Title 59, Chapter 2, Part 13, Collection of Taxes, for the sale of property for delinquent general property taxes.

(2) (a) If a local district certifies past due fees under Subsection (1)(a), the treasurer of the county shall provide a notice, in accordance with this Subsection (2), to the owner of the property for which the local district has incurred the past due fees.

(b) In providing the notice required in Subsection (2)(a), the treasurer of the county shall:

(i) include the amount of past due fees that a local district has certified on or before July 15 of the current year;

(ii) provide contact information, including a phone number, for the property owner to contact the local district to obtain more information regarding the amount described in Subsection (2)(b)(i); and

(iii) notify the property owner that:

(A) if the amount described in Subsection (2)(b)(i) is not paid in full by September 15 of the current year, any unpaid amount will be included on the property tax notice required by Section 59-2-1317; and

(B) the failure to pay the amount described in Subsection (2)(b)(i) ~~[has resulted]~~ may result in a lien on the property in accordance with ~~[this section]~~ Subsection (1)(b).

(c) The treasurer of the county shall provide the notice required by this Subsection (2) to a property owner on or before August 1.

(3) (a) If a local district certifies past due fees under Subsection (1)(a), the county treasurer shall include on a property tax notice issued in accordance with Section 59-2-1317 an unpaid fee, administrative cost, or interest described in Subsection (1)(a).

(b) If an unpaid fee, administrative cost, or interest is included on a property tax notice in accordance with Subsection (3)(a), the county treasurer shall on the property tax notice:

(i) clearly state that the unpaid fee, administrative cost, or interest is for a service provided by the local district; and

(ii) itemize the unpaid fee, administrative cost, or interest separate from any other tax, fee, interest, or penalty that is included on the property tax notice in accordance with Section 59-2-1317.

(4) A lien under Subsection (1) is not valid if the local district makes certification under Subsection ~~[(1) is made]~~ (1)(a) or records the lien under Subsection (1)(b) after the filing for record of a document conveying title of the customer's property to a new owner.

(5) Nothing in this section may be construed to:

(a) waive or release the customer's obligation to pay fees that the district has imposed;

(b) preclude the certification of a lien under Subsection (1) with respect to past due fees for commodities, services, or facilities provided after the date that title to the property is transferred to a new owner; or

(c) nullify or terminate a valid lien.

(6) After all amounts owing under a lien established as provided in this section have been paid, the local district shall file for record in the county recorder's office a release of the lien.

Section 13. Section **17B-2a-506** is amended to read:

17B-2a-506. Different use charges for different units -- Use charges based on the size of the land served -- Use charge may not be based on property value.

(1) An irrigation district may:

(a) divide the district into units and apply different use charges to the different units; and

(b) base use charges upon the amount of water or electricity the district provides, the area of the land served, or any other reasonable basis, as determined by the board of trustees.

(2) If an irrigation district imposes a use charge based on the size of the land served or the amount of water allotted to the land:

(a) the assessor of the county in which the land is located shall assist the irrigation district in ascertaining the identity of a parcel served by the district;

(b) the district shall notify the treasurer of the county in which the land is located of the charge to be imposed for each parcel of land served by the district; and

(c) the treasurer of the county in which the land is located:

(i) shall:

(A) provide each landowner a notice of use charges as part of the annual tax notice as an additional charge separate from ad valorem taxes;

(B) collect, receive, and provide an accounting for all money belonging to the district from use charges; and

(C) remit to the irrigation district, by the tenth day of each month, the funds previously collected by the county as use charges on the district's behalf; and

(ii) may receive and account for use charges separately from taxes upon real estate for county purposes.

(3) (a) ~~[A] The district may record a~~ use charge described in Subsection ~~[(2)(b) shall become]~~ (1)(b) as a lien on the land served, as provided in ~~[Section 17B-1-902]~~ Subsection 17B-1-902(1)(b). except that the certification described in Subsection 17B-1-902(1)(a) is not required.

(b) A lien described in Subsection (3)(a) shall remain in force until the use charge is paid.

(c) The county treasurer shall release a lien described in Subsection (3)(a) upon receipt of full payment of the use charge.

(d) The district may pursue judicial foreclosure to enforce the lien in the same manner of enforcing a valid judgment of a district court.

(4) A use charge may not be calculated on the basis of property value and does not constitute an ad valorem property tax or other tax.

Section 14. Section **17B-2a-1007** is amended to read:

17B-2a-1007. Contract assessments.

(1) As used in this section:

(a) "Assessed land" means:

(i) for a contract assessment under a water contract with a private water user, the land owned by the private water user that receives the beneficial use of water under the water contract; or

(ii) for a contract assessment under a water contract with a public water user, the land within the boundaries of the public water user that is within the boundaries of the water conservancy district and that receives the beneficial use of water under the water contract.

(b) "Contract assessment" means an assessment levied as provided in this section by a water conservancy district on assessed land.

(c) "Governing body" means:

(i) for a county, city, or town, the legislative body of the county, city, or town;

(ii) for a local district, the board of trustees of the local district;

(iii) for a special service district:

(A) the legislative body of the county, city, or town that established the special service

district, if no administrative control board has been appointed under Section 17D-1-301; or

(B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and

(iv) for any other political subdivision of the state, the person or body with authority to govern the affairs of the political subdivision.

(d) "Petitioner" means a private petitioner or a public petitioner.

(e) "Private petitioner" means an owner of land within a water conservancy district who submits a petition to a water conservancy district under Subsection (3) to enter into a water contract with the district.

(f) "Private water user" means an owner of land within a water conservancy district who enters into a water contract with the district.

(g) "Public petitioner" means a political subdivision of the state:

(i) whose territory is partly or entirely within the boundaries of a water conservancy district; and

(ii) that submits a petition to a water conservancy district under Subsection (3) to enter into a water contract with the district.

(h) "Public water user" means a political subdivision of the state:

(i) whose territory is partly or entirely within the boundaries of a water conservancy district; and

(ii) that enters into a water contract with the district.

(i) "Water contract" means a contract between a water conservancy district and a private water user or a public water user under which the water user purchases, leases, or otherwise acquires the beneficial use of water from the water conservancy district for the benefit of:

(i) land owned by the private water user; or

(ii) land within the public water user's boundaries that is also within the boundaries of the water conservancy district.

(j) "Water user" means a private water user or a public water user.

(2) A water conservancy district may levy a contract assessment as provided in this section.

(3) (a) The governing body of a public petitioner may authorize its chief executive

529 officer to submit a written petition on behalf of the public petitioner to a water conservancy
530 district requesting to enter into a water contract.

531 (b) A private petitioner may submit a written petition to a water conservancy district
532 requesting to enter into a water contract.

533 (c) Each petition under this Subsection (3) shall include:

534 (i) the petitioner's name;

535 (ii) the quantity of water the petitioner desires to purchase or otherwise acquire;

536 (iii) a description of the land upon which the water will be used;

537 (iv) the price to be paid for the water;

538 (v) the amount of any service, turnout, connection, distribution system, or other charge
539 to be paid;

540 (vi) whether payment will be made in cash or annual installments;

541 (vii) a provision requiring the contract assessment to become a lien on the land for
542 which the water is petitioned and is to be allotted; and

543 (viii) an agreement that the petitioner is bound by the provisions of this part and the
544 rules and regulations of the water conservancy district board of trustees.

545 (4) (a) If the board of a water conservancy district desires to consider a petition
546 submitted by a petitioner under Subsection (3), the board shall:

547 (i) publish notice of the petition and of the hearing required under Subsection (4)(a)(ii)
548 at least once a week in two successive weeks in a newspaper of general circulation within the
549 county in which the political subdivision or private petitioner's land, as the case may be, is
550 located; and

551 (ii) hold a public hearing on the petition.

552 (b) Each notice under Subsection (4)(a)(i) shall:

553 (i) state that a petition has been filed and that the district is considering levying a
554 contract assessment; and

555 (ii) give the date, time, and place of the hearing required under Subsection (4)(a)(ii).

556 (c) (i) At each hearing required under Subsection (4)(a)(ii), the board of trustees of the
557 water conservancy district shall:

558 (A) allow any interested person to appear and explain why the petition should not be
559 granted; and

(B) consider each written objection to the granting of the petition that the board receives before or at the hearing.

(ii) The board of trustees may adjourn and reconvene the hearing as the board considers appropriate.

(d) (i) Any interested person may file with the board of the water conservancy district, at or before the hearing under Subsection (4)(a)(ii), a written objection to the district's granting a petition.

(ii) Each person who fails to submit a written objection within the time provided under Subsection (4)(d)(i) is considered to have consented to the district's granting the petition and levying a contract assessment.

(5) After holding a public hearing as required under Subsection (4)(a)(ii), the board of trustees of a water conservancy district may:

(a) deny the petition; or

(b) grant the petition, if the board considers granting the petition to be in the best interests of the district.

(6) The board of a water conservancy district that grants a petition under this section may:

(a) make an allotment of water for the benefit of assessed land;

(b) authorize any necessary construction to provide for the use of water upon the terms and conditions stated in the water contract;

(c) divide the district into units and fix a different rate for water purchased or otherwise acquired and for other charges within each unit, if the rates and charges are equitable, although not equal and uniform, for similar classes of services throughout the district; and

(d) levy a contract assessment on assessed land.

(7) (a) The board of trustees of each water conservancy district that levies a contract assessment under this section shall:

(i) cause a certified copy of the resolution, ordinance, or order levying the assessment to be recorded in the office of the recorder of each county in which assessed land is located; and

(ii) on or before July 1 of each year after levying the contract assessment, certify to the auditor of each county in which assessed land is located the amount of the contract assessment.

(b) (i) Upon the recording of the resolution [~~or ordinance under~~], ordinance, or order, in accordance with Subsection (7)(a)(i), the contract assessment associated with allotting water to the assessed land under the water contract becomes a perpetual lien on the assessed land as of the effective date of the resolution, ordinance, or order.

(ii) If the resolution, ordinance, or order is not recorded in accordance with Subsection (7)(a)(i), and if a subsequent bona fide purchaser purchases the assessed land for value, the lien is invalid and does not attach to the land.

(c) Each county in which assessed land is located shall collect the contract assessment in the same manner as taxes levied by the county.

(8) (a) The board of trustees of each water conservancy district that levies a contract assessment under this section shall:

(i) hold a public hearing, before August 8 of each year in which a contract assessment is levied, to hear and consider objections filed under Subsection (8)(b); and

(ii) twice publish a notice, at least a week apart:

(A) (I) in a newspaper of general circulation in each county with assessed land included within the district boundaries; or

(II) if there is no newspaper of general circulation within the county, in a newspaper of general circulation in an adjoining county;

(B) that contains:

(I) a general description of the assessed land;

(II) the amount of the contract assessment; and

(III) the time and place of the public hearing under Subsection (8)(a)(i).

(b) An owner of assessed land within the water conservancy district who believes that the contract assessment on the owner's land is excessive, erroneous, or illegal may, before the hearing under Subsection (8)(a)(i), file with the board of trustees a verified, written objection to the assessment, stating the grounds for the objection.

(c) (i) At each hearing under Subsection (8)(a)(i), the board of trustees shall hear and consider the evidence and arguments supporting each objection.

(ii) After hearing and considering the evidence and arguments supporting an objection, the board of trustees:

(A) shall enter a written order, stating its decision; and

(B) may modify the assessment.

(d) (i) An owner of assessed land may file a petition in district court seeking review of a board of trustees' order under Subsection (8)(c)(ii)(A).

(ii) Each petition under Subsection (8)(d)(i) shall:

(A) be filed within 30 days after the board enters its written order;

(B) state specifically the part of the board's order for which review is sought; and

(C) be accompanied by a bond with good and sufficient security in an amount not exceeding \$200, as determined by the court clerk.

(iii) If more than one owner of assessed land seeks review, the court may, upon a showing that the reviews may be consolidated without injury to anyone's interests, consolidate the reviews and hear them together.

(iv) The court shall act as quickly as possible after a petition is filed.

(v) A court may not disturb a board of trustees' order unless the court finds that the contract assessment on the petitioner's assessed land is manifestly disproportionate to assessments imposed upon other land in the district.

(e) If no petition under Subsection (8)(d) is timely filed, the contract assessment is conclusively considered to have been made in proportion to the benefits conferred on the land in the district.

(9) Each resolution, ordinance, or order under which a water conservancy district levied a Class B, Class C, or Class D assessment before April 30, 2007, under the law in effect at the time of the levy is validated, ratified, and confirmed, and a water conservancy district may continue to levy the assessment according to the terms of the resolution, ordinance, or order.

(10) A contract assessment is not a levy of an ad valorem property tax and is not subject to the limits stated in Section 17B-2a-1006.

Section 15. Section **59-2-1317** is amended to read:

59-2-1317. Tax notice -- Contents of notice -- Procedures and requirements for providing notice.

(1) Subject to the other provisions of this section, the county treasurer shall:

(a) collect the taxes; and

(b) provide a notice to each taxpayer that contains the following:

- 653 (i) the kind and value of property assessed to the taxpayer;
- 654 (ii) the street address of the property, if available to the county;
- 655 (iii) that the property may be subject to a detailed review in the next year under Section
- 656 59-2-303.1;
- 657 (iv) the amount of taxes levied;
- 658 (v) a separate statement of the taxes levied only on a certain kind or class of property
- 659 for a special purpose;
- 660 (vi) property tax information pertaining to taxpayer relief, options for payment of
- 661 taxes, and collection procedures;
- 662 (vii) if applicable, the amount of an assessment assessed in accordance with Section
- 663 11-42-401;
- 664 (viii) if applicable, for a local district in accordance with Section 17B-1-902, an unpaid
- 665 fee, administrative cost, or interest [~~for a local district in accordance with Section 17B-1-902~~];
- 666 (ix) the date the taxes are due;
- 667 (x) the street address at which the taxes may be paid;
- 668 (xi) the date on which the taxes are delinquent;
- 669 (xii) the penalty imposed on delinquent taxes;
- 670 (xiii) a statement that explains the taxpayer's right to direct allocation of a partial
- 671 payment in accordance with Subsection [~~(7)~~] (8);
- 672 (xiv) other information specifically authorized to be included on the notice under this
- 673 chapter; and
- 674 (xv) other property tax information approved by the commission.
- 675 (2) (a) Unless expressly allowed under this section or another statutory provision, the
- 676 treasurer may not add an item to the property tax notice.
- 677 (b) The inclusion of an item on the property tax notice under Subsection (1) does not,
- 678 solely by virtue of the item's inclusion on the notice:
 - 679 (i) render the item as a property tax;
 - 680 (ii) allow for the treatment of the item as a property tax; or
 - 681 (iii) grant any additional authority or priority to the item that another statutory
 - 682 provision does not otherwise grant.
- 683 [~~(2)~~] (3) For any property for which property taxes are delinquent, the notice described

684 in Subsection (1) shall state, "Prior taxes are delinquent on this parcel."

685 ~~[(3)]~~ (4) Except as provided in Subsection ~~[(4)]~~ (5), the county treasurer shall:

686 (a) mail the notice required by this section, postage prepaid; or

687 (b) leave the notice required by this section at the taxpayer's residence or usual place of
688 business, if known.

689 ~~[(4)]~~ (5) (a) Subject to the other provisions of this Subsection ~~[(4)]~~ (5), a county
690 treasurer may, at the county treasurer's discretion, provide the notice required by this section by
691 electronic mail if a taxpayer makes an election, according to procedures determined by the
692 county treasurer, to receive the notice by electronic mail.

693 (b) A taxpayer may revoke an election to receive the notice required by this section by
694 electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.

695 (c) A revocation of an election under this section does not relieve a taxpayer of the
696 duty to pay a tax due under this chapter on or before the due date for paying the tax.

697 (d) A county treasurer shall provide the notice required by this section using a method
698 described in Subsection ~~[(3)]~~ (4), until a taxpayer makes a new election in accordance with this
699 Subsection ~~[(4)]~~ (5), if:

700 (i) the taxpayer revokes an election in accordance with Subsection ~~[(4)]~~ (5)(b) to
701 receive the notice required by this section by electronic mail; or

702 (ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.

703 (e) A person is considered to be a taxpayer for purposes of this Subsection ~~[(4)]~~ (5)
704 regardless of whether the property that is the subject of the notice required by this section is
705 exempt from taxation.

706 ~~[(5)]~~ (6) (a) The county treasurer shall provide the notice required by this section to a
707 taxpayer on or before November 1.

708 (b) The county treasurer shall keep on file in the county treasurer's office the
709 information set forth in the notice.

710 (c) The county treasurer is not required to mail a tax receipt acknowledging payment.

711 ~~[(6)]~~ (7) This section does not apply to property taxed under Section 59-2-1302 or
712 59-2-1307.

713 ~~[(7)]~~ (8) (a) ~~[A]~~ If a taxpayer [who] pays less than the full amount due on the taxpayer's
714 property tax notice, regardless of whether there are unpaid amounts owing from a previous tax

715 year, the taxpayer may, on a form provided by the county treasurer, direct how the county
716 treasurer allocates the partial payment between:

- 717 (i) the total amount due for property tax;
- 718 (ii) the amount due for assessments;
- 719 (iii) the amount due for past due local district fees; and
- 720 (iv) any other amounts due on the property tax notice.

721 (b) The county treasurer shall strictly comply with a direction submitted to the county
722 treasurer in accordance with Subsection [~~(7)~~] (8)(a).

723 (c) The provisions of this Subsection [~~(7)~~] (8) do not:

- 724 (i) affect the right or ability of a local entity to pursue any available remedy for
725 non-payment of any item listed on a taxpayer's property tax notice; or
- 726 (ii) toll or otherwise change any time period related to a remedy described in
727 Subsection [~~(7)~~] (8)(c)(i).

728 Section 16. Section **59-2-1332.5** is amended to read:

729 **59-2-1332.5. Mailing notice of delinquency or publication of delinquent list --**

730 **Contents -- Notice -- Definitions.**

731 (1) The county treasurer shall provide notice of delinquency in the payment of property
732 taxes:

- 733 (a) except as provided in Subsection (4), on or before December 31 of each calendar
734 year; and
- 735 (b) in a manner described in Subsection (2).

736 (2) A notice of delinquency in the payment of property taxes shall be provided by:

737 (a) (i) mailing a written notice that includes the information described in Subsection
738 (3)(a), postage prepaid, to:

- 739 (A) each delinquent taxpayer; and
- 740 (B) if the delinquent property taxes are assessed on a base parcel, the record owner of
741 each subdivided lot; and

742 (ii) making available to the public a list of delinquencies in the payment of property
743 taxes:

- 744 (A) by electronic means; and
- 745 (B) that includes the information required by Subsection (3)(b); or

746 (b) publishing a list of delinquencies in the payment of property taxes:
747 (i) in one issue of a newspaper having general circulation in the county;
748 (ii) that lists each delinquency in alphabetical order by:
749 (A) the last name of the delinquent taxpayer; or
750 (B) if the delinquent taxpayer is a business entity, the name of the business entity; and
751 (iii) that includes the information described in Subsection (3)(b).
752 (3) (a) A written notice of delinquency in the payment of property taxes described in
753 Subsection (2)(a)(i) shall include:
754 (i) a statement that delinquent taxes are due;
755 (ii) the amount of delinquent taxes due, not including any penalties imposed in
756 accordance with this chapter;
757 (iii) (A) the name of the delinquent taxpayer; or
758 (B) if the delinquent taxpayer is a business entity, the name of the business entity;
759 (iv) (A) a description of the delinquent property; or
760 (B) the property identification number of the delinquent property;
761 (v) a statement that a penalty shall be imposed in accordance with this chapter; and
762 (vi) a statement that interest accrues as of January 1 following the date of the
763 delinquency unless on or before January 31 the following are paid:
764 (A) the delinquent taxes; and
765 (B) the penalty.
766 (b) The list of delinquencies described in Subsection (2)(a)(ii) or (2)(b) shall include:
767 (i) the amount of delinquent taxes due, not including any penalties imposed in
768 accordance with this chapter;
769 (ii) (A) the name of the delinquent taxpayer; or
770 (B) if the delinquent taxpayer is a business entity, the name of the business entity;
771 (iii) (A) a description of the delinquent property; or
772 (B) the property identification number of the delinquent property;
773 (iv) a statement that a penalty shall be imposed in accordance with this chapter; and
774 (v) a statement that interest accrues as of January 1 following the date of the
775 delinquency unless on or before January 31 the following are paid:
776 (A) the delinquent taxes; and

(B) the penalty.

(4) Notwithstanding Subsection (1)(a), if the county legislative body extends the property tax due date under Subsection 59-2-1332(1), the notice of delinquency in the payment of property taxes shall be provided on or before January 10.

(5) (a) In addition to the notice of delinquency in the payment of property taxes required by Subsection (1), a county treasurer may in accordance with this Subsection (5) mail a notice that property taxes are delinquent:

(i) to:

(A) a delinquent taxpayer;

(B) an owner of record of the delinquent property;

(C) any other interested party that requests notice; or

(D) a combination of Subsections (5)(a)(i)(A) through (C); and

(ii) at any time that the county treasurer considers appropriate.

(b) A notice mailed in accordance with this Subsection (5):

(i) shall include the information required by Subsection (3)(a); and

(ii) may include any information that the county treasurer finds is useful to the owner of record of the delinquent property in determining:

(A) the status of taxes owed on the delinquent property;

(B) any penalty that is owed on the delinquent property;

(C) any interest charged under Section 59-2-1331 on the delinquent property; or

(D) any related matters concerning the delinquent property.

(c) The inclusion of an item on the notice described in this Subsection (5) does not, solely by virtue of the item's inclusion on the notice:

(i) render the item as a property tax;

(ii) allow for the treatment of the item as a property tax; or

(iii) grant any additional authority or priority to the item that another statutory provision does not otherwise grant.

(6) As used in this section, "business entity" means:

(a) an association;

(b) a corporation;

(c) a limited liability company;

- 808 (d) a partnership;
809 (e) a trust; or
810 (f) a business entity similar to Subsections (6)(a) through (e).

811 Section 17. Section **59-2-1343** is amended to read:

812 **59-2-1343. Tax Sale Listing.**

813 (1) As used in this section, "property tax" means any ad valorem tax on real property
814 for which a rate increase is subject to notice and public hearing requirements in accordance
815 with Section 59-2-919.

816 (2) If any property is not redeemed by March 15 following the lapse of four years from
817 the date when the property tax became delinquent, the county treasurer shall immediately file a
818 listing with the county auditor of all properties whose redemption period is expiring in the
819 nearest forthcoming tax sale.

820 (3) The listing described in Subsection (2) is known as the "Tax Sale Listing."

821 (4) Delinquencies other than property tax delinquencies may not subject the property to
822 a tax sale.

823 Section 18. Section **59-2-1351** is amended to read:

824 **59-2-1351. Sales by county -- Notice of tax sale -- Entries on record.**

825 (1) As used in this section, "property tax" means any ad valorem tax on real property
826 for which a rate increase is subject to notice and public hearing requirements in accordance
827 with Section 59-2-919.

828 ~~[(1)]~~ (2) (a) Upon receiving the Tax Sale Listing from the county treasurer, the county
829 auditor shall select a date for the tax sale for all real property on which a property tax
830 delinquency exists that was not previously redeemed and upon which the period of redemption
831 is expiring in the nearest tax sale.

832 (b) The tax sale shall be conducted in May or June of the current year.

833 ~~[(2)]~~ (3) Notice of the tax sale shall be provided as follows:

834 (a) sent by certified and first class mail to the last-known recorded owner, the occupant
835 of any improved property, and all other interests of record, as of the preceding March 15, at
836 their last-known address; and

837 (b) published:

838 (i) four times in a newspaper published and having general circulation in the county,

once in each of four successive weeks immediately preceding the date of sale; and

(ii) in accordance with Section 45-1-101 for four weeks immediately preceding the date of sale; and

(c) if no newspaper is published in the county, posted in five public places in the county, as determined by the auditor, at least 25 but no more than 30 days prior to the date of sale.

~~[(3)]~~ (4) The notice shall be in substantially the following form:

NOTICE OF TAX SALE

Notice is hereby given that on _____(month\day\year), at ___ o'clock __. m., at the front door of the county courthouse in ____ County, Utah, I will offer for sale at public auction and sell to the highest bidder for cash, under the provisions of Section 59-2-1351.1, the following described real property located in the county and now delinquent and subject to tax sale. A bid for less than the total amount of taxes, interest, penalty, and administrative costs which are a charge upon the real estate will not be accepted.

(Here describe the real estate)

IN WITNESS WHEREOF I have hereunto set my hand and official seal on _____(month\day\year).

County Auditor

County

~~[(4)]~~ (5) (a) The notice sent by certified mail in accordance with Subsection ~~[(2)(a)]~~ (3)(a) shall include:

(i) the name and last-known address of the last-known recorded owner of the property to be sold;

(ii) the parcel, serial, or account number of the delinquent property; and

(iii) the legal description of the delinquent property.

(b) The notice published in a newspaper in accordance with Subsection ~~[(2)(b)]~~ (3)(b) shall include:

(i) the name and last-known address of the last-known recorded owner of each parcel of property to be sold; and

870 (ii) the street address or the parcel, serial, or account number of the delinquent parcels.